

MINUTES OF THE CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

For the meeting held on
Tuesday, November 27, 2018 at 2:00 p.m.
1325 J Street, 17th Floor
Sacramento, California 95814

Chair Panorea Avdis called the meeting of the California Infrastructure and Economic Development Bank (IBank) Board to order at approximately 2:00 p.m.

1. Call to Order and Roll Call

The following Board members were in attendance:

Chair, Panorea Avdis for the Governor's Office of Business and Economic Development

Augustin Jimenez for the Secretary of the California State Transportation Agency

Tim Schaefer for the State Treasurer's Office, and

Kari Krogseng for the Director of the Department of Finance

IBank staff members in attendance were

Teveia Barnes, Nancee Trombley, Stefan Spich and William Pahland

Information Item

2. Executive Director's Report

Chair Avdis began by noting that this would be Executive Director Teveia Barnes' last IBank Board meeting before she retired at the end of November. Chair Avdis thanked Ms. Barnes for 5 years of great leadership, noting IBank's impressive growth and performance. Chair Avdis then presented Ms. Barnes with a resolution to honor her service and read selected portions aloud. Board Member Tim Schaefer arrived during this presentation. Chair Avdis and the Board then closed by offering best wishes for Ms. Barnes' retirement and a round of applause.

Ms. Barnes responded by noting that IBank's accomplishments were only possible with the strong support of IBank's Board. IBank staff was responsible for the vision and work to bring items forward, but without IBank Board effort and approval, nothing would have resulted. Ms. Barnes concluded by thanking the Chair and the Board members and their representatives for their guidance and service.

Chair Avdis then asked that Ms. Barnes deliver the Executive Director's Report. Ms. Barnes then invited Emily Burgos, Small Business Finance Center (SBFC) manager, to provide the Board with an update on the Jump Start Program. Ms. Burgos reported 3 new loans had closed for \$10,000 each, bringing total loans to \$215,000. The borrowers included an agricultural service provider, a clothing store, and a catering business. Additionally the FDCs had provided technical assistance to 17 new people for a total of 63 hours. This brings cumulative technical assistance figures to 222 people served, for an aggregate of 617 hours. Ms. Burgos then introduced Yana Buryak, SBFC Analyst, who provided an overview of SBFC data using IBank's OpenGov platform that is available on IBank's

website. Ms. Buryak demonstrated how to view and analyze loans by use, economic sector, demographics, region, amount or other characteristics and how to present the information as raw data or in charts, graphs or maps. Chair Avdis asked if current loan status was available for searching and Ms. Burgos said that information was kept internally but not publicly displayed. Ms. Burgos concluded by noting this information helped meet IBank's goals to be responsive and transparent, and helped visually explain the impact and success of IBank's SBFC programs. Chair Avdis asked how long IBank had been using this software and Ms. Burgos responded approximately one year, but that the key had been to figure out how to present the data in the most useful form and in the format most responsive to routine user requests. In response to a Board question Ms. Trombley confirmed ISRF loan information would soon be displayed and searchable in the same manner. Chair Avdis thanked Ms. Burgos and Ms. Buryak for the presentation.

Consent Item

3. Approve minutes from the meeting held on October 23, 2018

Chair Avdis opened up discussion of the previous month's minutes. Chair Avdis confirmed that she did not attend the prior meeting and would abstain from voting, but that the other Board members were all present. Mr. Jimenez moved to approve minutes and Mr. Schaefer seconded the motion. After asking for and receiving no public comment, the Board voted unanimously to approve the October 23, 2018 Meeting Minutes.

Action Items

4. Resolution No. 18-16 approving lending Infrastructure State Revolving Fund Program funds to the County of Santa Cruz Sanitation District in an amount not to exceed \$7,000,000 to finance an eligible project known as the Capitola / Jewel Box Sewer Replacement Project located in the City of Capitola.

Mr. Max Emami, Loan Origination Manager, introduced Resolution 18-16. Mr. Emami then introduced Mr. Rodney Turello, Engineer for the County of Santa Cruz Sanitation District. Chair Avdis invited comments from Mr. Turello, and he responded by thanking the IBank Board and staff for considering this project. Chair Avdis asked the Board members if they had any comments or questions. Mr. Jimenez asked IBank staff a general question about the litigation risk related to Proposition 218 and the District's service rates. Chief Counsel William Pahland responded with an overview of Prop. 218, how it could impact the District's finances and how IBank had undertaken the related analysis. Mr. Jimenez thanked Mr. Pahland for the discussion. Mr. Schaefer then asked whether a bracketed sentence on Page 9 of the Staff Report was intended to be included in the final draft and the brackets had been retained as a clerical oversight. Mr. Pahland confirmed the brackets should be removed. Chair Avdis then asked for public comment. Hearing none, Mr. Schaefer moved for approval of the resolution and Ms. Krogseng seconded. The Board voted unanimously to pass Resolution 18-16.

5. Resolution No. 18-17 approving the pledge and transfer of all current and future accumulated interest from the California Infrastructure Guarantee Trust Fund to the California Infrastructure and Economic Development Bank Fund (IBank Fund) to be used to finance projects for eligible IBank Infrastructure State Revolving Fund borrowers and for any other purpose permitted under the Bergeson-Peace Infrastructure and Economic Development Bank Act.

Teveia Barnes introduced Resolution 18-17. She began with a brief history of the 3 funds under the IBank Act: the Infrastructure State Revolving Fund, the Expansion Fund, and, the subject of Resolution 18-17, the Guarantee Trust Fund (Trust Fund). Ms. Barnes noted

that in 2003 the IBank Board adopted a Resolution approving the transfer of \$20 million from the Infrastructure State Revolving Fund to the Trust Fund for the benefit of Imperial Irrigation District (IID). The original intent was to use the \$20 million to guarantee bonds to be issued by IID, but these bonds were never issued. After renewal of the Resolution, and just as its authority was about to expire again in December 2010, California passed legislation requiring IBank to set aside \$24,247,108.79 in an account inside the Trust Fund for the benefit of IID. On an on-going annual basis IBank has been in contact with IID regarding use of these funds. IID has routinely responded it is considering its capital improvement plans but had no current intention to issue bonds. These funds have been idle for 15 years now and there is no sunset or other timing requirement requiring they be used by a certain date. Ms. Barnes continued that the 2010 legislation was clear that the original \$24+ million remained set aside for the benefit of IID in perpetuity, but noted that the IBank Act permitted the interest on the original \$24+ million to be used to support IBank's ISRF Bonds. As of September 2018 this interest component had exceeded \$1 million. Ms. Barnes noted that the applicable language in the IBank Act was not perfectly clear and so she was asking the Board to (1) approve IBank using the interest component to deposit into its ISRF Bonds reserve fund so that current reserve funds already on deposit could be used for other permitted program purposes, and (2) approve IBank undertaking a validation action to clarify through litigation that IBank will be able to use earned interest as previously described. Ms. Barnes stressed that she had been in close contact with IID throughout this process: she had sent this Staff Report to IID's Executive Director before finalizing and distributing it to the IBank Board, had followed up with a phone call to IID's Executive Director, had invited IID to attend today's meeting or submit written materials, and planned to stay in contact throughout this process.

Chair Avdis asked about the cost of the validation action. Ms. Barnes answered that it was estimated to be \$5,000 to \$10,000, but that final cost would depend upon the size and nature of the response to the action, and IBank could adjust if it faced an unexpected response. Chair Avdis then asked how long the process might take. Mr. Pahland responded that timing would also depend upon the response, but that the complaint would take attorney time to draft and had to sit for 60 days after its filing, so that 90 days was a best case scenario.

Ms. Krogseng asked if IBank intended to use the Attorney General's office (AG) to pursue the validation action. Mr. Pahland responded that they will work first with the AG, but if the AG is inexperienced on this issue or otherwise unable to undertake the action IBank would seek to engage outside counsel. Ms. Krogseng and Mr. Jimenez both responded that the AG had experience in other validation actions and would be most cost effective choice. Mr. Pahland agreed the AG had experience in validation actions, but noted that the overlay of public finance law in the IBank's case presented a unique framework that may take it beyond the AG's usual practice area. Ms. Krogseng asked whether this wasn't a routine matter for the AG of statutory interpretation. Ms. Barnes responded that the validation action specified the intended public finance uses for the interest component and therefore required municipal finance subject matter expertise to determine whether the intended use was permitted by IBank's bond documents. Mr. Pahland confirmed that IBank appreciated the cost effective nature of the AG, and that IBank would consult with them as required by law, but noted the intertwined nature of the matter meant that the public finance issues could not be separately considered from the statutory interpretation issues and therefore the responsible attorneys would have to be comfortable addressing both aspects. Mr. Jimenez discussed the form of response expected from the AG, and asked that a formal letter be delivered if the AG was unable to accept the matter. Mr. Pahland confirmed a formal AG letter would be required for the notification letter to the attorney's union (CASE) in the case of hiring outside counsel, and so one would be acquired. Ms. Barnes added

that IBank routinely used the AG as its “go-to” attorneys for litigation and had been extraordinarily helpful to IBank in previous matters.

Mr. Jimenez noted that this case could involve other governmental entities and asked whether the Governor’s Office had been informed. Ms. Barnes said they had not separately contacted the Governor’s Office and had instead brought it before the IBank Board as a routine manner. Chair Avdis responded that the lack of response from IID suggested that a routine approach to this matter was reasonable. Mr. Jimenez noted that IID may react differently once a validation action had been filed, and therefore IBank should stay alert. Ms. Barnes agreed and noted that she was asking the Board to approve the current Resolution 18-17 to clarify IBank’s Board approval on the matter and allow IBank to undertake discussion with the AG. Mr. Jimenez clarified that he supported the Resolution but wanted IBank to report back to the Board regarding the AG’s comfort level to undertake the representation. Mr. Schaefer asked about the origin of the money in the Trust Fund and whether these funds might be deemed restricted by federal tax law. Ms. Barnes responded that the funds at issue were original IBank equity and were not bond proceeds. Mr. Schaefer thanked Ms. Barnes and noted he supported Mr. Jimenez’s request to report back on interactions with the AG. Ms. Barnes added that IBank would also follow up with IID directly regarding the validation action.

Chair Avdis concluded the discussion by confirming motion was to approve Resolution 18-17, as originally drafted, with a report back on the interactions with the AG, as just discussed. Chair Avdis then asked for public comment. Hearing none, Mr. Jimenez moved for approval of the resolution and Ms. Krogseng seconded. The Board voted unanimously to pass Resolution 18-17.

Reporting/Non-Action Business

Chair Avdis then asked Ms. Barnes to report on any reporting/non-action items. Ms. Barnes directed the Board’s attention to the SBFC Monthly Investment Transaction Report for the month ending September 31, 2018 and the IBank Quarterly Investment Report for Quarter ending September 30, 2018.

Public Comment

There was no further public comment.

Adjournment

Chair Avdis declared the meeting adjourned at approximately 2:52 p.m.